MINUTES FOR THE REGULAR MEETING CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD Docket No. 5458

1. Opening of Meeting:

The Appeals Board convened at 10:30 a.m., July 13, 2005 in Sacramento, with Chair Cynthia K. Thornton presiding.

2.	Roll Call: <u>Members</u>	<u>Present</u> <u>Absent</u>
	Cynthia K. Thornton, Chair	X
	Ann Richardson, Vice Chair	(via phone)
	Virginia Strom-Martin	X
	Jack Cox	X

3. Approval of the Minutes:

The June Board meeting minutes were approved by all members.

4. Chair's Report:

Chair Thornton reported that the Department of Labor Region VI headquarters and Pat O'Neal have moved from Seattle to San Francisco, a positive for California.

Chair Thornton also reported she attended the National Association of Unemployment Insurance Appeals Boards (NAUIAB) conference in Rhode Island a few weeks ago. California had twelve representatives attending the conference, ten of whom paid their own way. California was responsible for four different panels, all of which were very well received. One of the panels was on CPR (California Performance Review), put on by Chair Thornton, Chief ALJ/Executive Director Jay Arcellana, and Presiding Administrative Law Judge Tim McArdle. It was a standing-room only event. The other states in attendance were extremely interested in how California is handling possible reorganization, particularly inasmuch as Minnesota has just become the fourth state to eliminate the appellate function altogether.

California sponsored the CAPP program (Certified Appellate Panel Program) in conjunction with the National Judicial College, under which judges acquire certified appellate program specialist status.

Chair Thornton further announced that NAUIAB unanimously approved California to host the Department of Labor's tri-annual conference next year. The conference will be held in San Diego, and CUIAB is very pleased to be able to host this event again. Chair Thornton also announced that she has been elected to the National Board, only the second California Board Member ever elected.

Chair Thornton reported that the Senate has not made an announcement yet on a successor to Board Member Don Novey's position.

Chair Thornton reported that she had lunch with the Secretary of Labor, Victoria Bradshaw, yesterday to discuss some of the issues the CUIAB is facing, including the size of the board. Chair Thornton commented that her term will expire on September 1, 2005, at which point CUIAB will have just three board members unless there are new appointments.

Finally, Chair Thornton introduced Patrick Henning, the Director of EDD (Employment Development Department), who will be speaking later in the meeting.

5. Board Member Reports:

Board Member Strom-Martin apologized for not attending the June Board meeting. She stated that she had to vote and realized too late that the day to vote fell on the same day as the Board Meeting.

6. Chief Administrative Law Judge/Executive Director's Report:

Chief ALJ/Executive Director Jay Arcellana reported that CUIAB's budget for the fiscal year 2005-2006 is \$67 million dollars. The personnel portion is 39.4 million, which equates to 631 total personnel years: 536 permanent positions and 95 temporary positions. The operating, equipment and expenses portion of the budget is 13.3 million. We are hopeful that this budgeted amount will increase due to two factors: first, EDD is projecting an increase in their overpayments budget, and if that bears out then CUIAB would receive an additional four million dollars; second, the Department of Labor just informed us yesterday evening that California is being awarded 5.5 million dollars for the appeals function, split between EDD and CUIAB. In terms of planning the budget there are two things that are up in the air: one is the increased cost of facilities given more stringent ADA requirements. CUIAB has budgeted for a 60% increase for facilities costs. The other is we are planning on an increase in salaries above the projected base due to promotions. Consequently CUIAB will initiate some new policies agency wide for the first quarter. The first of those new policies will be to eliminate cash overtime. Another is to fill vacancies with permanent intermittent employees. Lastly, as vacancies do arise, we will try to hold those positions vacant for at least four months in order to accrue some salary savings.

Chief ALJ/Executive Director Jay Arcellana also reported that CUIAB recently met with the Department of Industrial Relations concerning a request for a loan of judges to assist in wage and hour hearings. We will be meeting to iron out the details, and we intend to make every attempt to provide DIR with some help.

Chief ALJ/Executive Director Jay Arcellana also met with Presiding Administrative Law Judge for Appellate Operations Steve Angelides and Presiding Administrative Law Judge for Tax Madlyn Hilton to discuss the annual judicial conference,

scheduled for September in Long Beach. Secretary of Labor Victoria Bradshaw will attend and be the key note speaker.

Lastly, Chief ALJ/Executive Director Jay Arcellana reported that he, Ralph Hilton, and Tim McArdle visited former Chief ALJ/Executive Director Mike DiSanto. As you will recall, Mike suffered a stroke a few months back. He is doing very well and is able to get around with the assistance of a wheel chair. He has movement with his left side, and he can speak a few words. His comprehension was good, and he appeared to be in good spirits.

7. Branch Reports:

a. Chief ALJ/Executive Director Jay Arcellana reported that the field did very well this fiscal year in regard to workload, issuing 15,000 more dispositions than verified appeals received, a 6% increase in output. As a result of that productivity, the open balance was decreased by 11% and now sits at 40,000 cases, 5,000 less than this time last year. Recently, because of vacations and extra training efforts, the workload has started to increase in the field. The month of June was the fourth consecutive month in which workload has increased, with verifications up 8% from May. Unverified cases increased by 18% and the un-calendared cases are now at 5.84 weeks, one week over last month. Our target is between 2.5-3.5 weeks. Each field office has been requested and has submitted a workload reduction plan. Some of the offices will be doing evening and Saturday hearings. Other offices will do mass calendars on a regular basis. We will be working our retired annuitants, and some judges have been given the option of hearing extra cases in exchange for compensatory time off.

Chief ALJ/Executive Director Jay Arcellana responded to an inquiry from Chair Thornton, stating that Inland Office of Appeals has the highest open balance of cases at this time.

In other news Chief ALJ/Executive Director Jay Arcellana reported that Cindi Rosse has been named Presiding Administrative Law Judge in the San Jose Office of Appeals. There are recruitment issues at the PALJ level because the state pay scale provides for a difference in pay between PALJs and the ALJ IIs they supervise of only \$6.00 before taxes, and \$4.21 after taxes.

Linda Calvillo is the new LSS II in the Sacramento Office of Appeals.

On the facilities front, the San Diego Office is under construction for a remodel to increase storage, which should be completed this week; we have been able to renew our lease for the Watsonville facility; and approval from Agency of a lease for a new venue in San Francisco is in the works. Pat Houston and Pam Boston have put together a detailed description for vendors so the bids will be more accurate.

b. Presiding Administrative Law Judge Appellate Operations Steve Angelides reported that in June we registered 1,388 cases, which is 88% of the past year's

average. This reflects the continuing fall in the appeal rate, which fell again to 7% in June from 7.5% in May. The appeal rate had reached a 12 month high of 9.7% in March. It's notable that we registered 34 tax cases in June, continuing a trend which began in May when we registered 35 tax cases, compared to our average for the 10 months before May of 13 tax cases. This increase reflects the emphasis on tax cases in the field. Tax cases tend to be more likely than benefit cases to satisfy the criteria for oral arguments, and oral argument was granted in one new tax case in June.

In June Appellate Operations closed 1,339 cases, which is 85% of the past year's average. But that included 343 multi cases from the grocery trade dispute. Without those multi cases we would have closed only 996 cases, which would have been only 62% of the past year's average. This drop in non-multi production was due to a large number of vacations and special assignments in June. So far July has been a much more typical month. Because of the multi dispositions, however, our balance of open cases rose only slightly, by 38 cases, despite the drop in non-multi production.

In June our average case age again fell significantly to 42 days. The average case age the previous three months was 47 days. Our median case age also fell to 37 days, from 41 days in May.

Appellate Operations has two notable personnel changes. One of our two first level Legal Support Supervisors, Linda Calvillo, who has been in Appellate Operations for 14 years, has been appointed Legal Support Supervisor II for the Sacramento Office of Appeals. So we have an opening for a Legal Support Supervisor I in Appellate Operations which we will be filling as quickly as possible. In the Central Transcription Unit, we are fortunate that one of our retired court reporters, Darnell Usery, has become available to help us with transcripts as a retired annuitant.

Finally, our annual picnic is today after the Board meeting, and everyone is invited to attend.

Board Member Strom-Martin expressed recognition to ALJ Mike Canar for all his hard work on the multi cases.

c. Deputy Director Administrative Services Branch Pam Boston reported that the Personnel Branch is in the process of administering the test for Staff Services Manager, levels 1, 2 & 3. The final filling date for that will most likely be around the end of July or the first of August.

A new training program is being implemented for PALJ's to provide an overview of services provided by IT, Business Services and Personnel. The training will be administered by Pat Houston, Nick Dressler, Frances Aguilar and Al Ramirez.

Deputy Director Administrative Services Branch Pam Boston also reported that former Board Member Ingrid Azvedo, now working as a personnel analyst, will be retiring half time as of August 1.

IT has completed the deployment of its new servers in all of the field offices.

Finally, Deputy Director Administrative Services Branch Pam Boston stated that she and Deputy Director Mary Walton-Simons will be giving a joint presentation on the quick reference guide for managers and supervisors at the end of her report.

d. Deputy Director Planning and Program Management Branch Mary Walton-Simons reported that there have been two personnel changes in the Planning and Program Management Branch. The first is that the Strategic Planning Manager John Dickerson has accepted a job with the California Judicial Council. His last day with the CUIAB will be this Friday. The second item is our half time Staff Services Analyst position has been filled by Mirella Vazquez who recently completed her Bachelor of Science degree in sociology at UC Davis.

Deputy Director Planning and Program Management Branch Mary Walton-Simons also reported that the PALJ overview training has been completed in Oakland, Inglewood and San Jose, and in July and August training will be given in Oxnard, Fresno, San Diego and Sacramento offices.

Lastly, Deputy Director Planning and Program Management Branch Mary Walton-Simons reported Pat O'Neil has advised CUIAB that it is time to conduct an appeals program review, and we will receive formal notice of this review soon. The review requires that Mr. O'Neil actually visit several of our appeals offices, including Appellate Operations, and compile data for a report to submit to DOL. When Mr. O'Neil has completed his report, he will give us an opportunity to review it before submission.

The DOL national office has sent an advisory to all states regarding case aging. All states are now required to provide DOL with this data starting in June.

Deputy Director Planning and Program Management Branch Mary Walton-Simons and Deputy Director Administrative Services Branch Pam Boston gave a power point on case aging and the quick reference guide. (Attachments A & B)

8. Chief Counsel's Report:

Chief Counsel Ralph Hilton reported that the CUIAB is carrying 110 cases in litigation. Seven cases were closed last month and one new case was filed. (Attachment C) Board Member workload was higher this month because fewer members were available to be assigned cases. Some days were double or even triple the typical number of cases assigned. (Attachment D)

Chief Counsel Ralph Hilton also reported that there is an interesting court case pending currently on the issue of reasonable assurance dealing with substitute teachers and summer school sessions. This particular case arises out of the San Francisco Unified School District. The Department granted benefits to some of the substitutes, and denied benefits to others. The ALJ denied benefits to all of the

substitute teachers, but the Board reversed the ALJ. The law on this issue is not clear, as there have been no prior California court decisions that address this specific issue.

9. Unfinished & New Business:

Chair Thornton introduced Pat Henning, Director of the Employment Development Department.

Mr. Henning expressed gratitude to the CUIAB for allowing him to attend the Board Meeting. He also commented that it ought to be a regular occurrence for the CUIAB and EDD to get together to discuss challenges and common observations.

Mr. Henning gave a brief overview of the Department including some of its functions and challenges. He stated that EDD is the biggest tax collector in the state. In 2004 it collected 41 billion dollars and gave 39 billion of that to the General Fund of California. EDD has approximately 5000 audits at any given time to ensure employers are calculating taxes properly. Another function of EDD is the income security programs which include unemployment insurance, disability insurance and now the paid family leave program. EDD also does job training and workforce development. Another section of the Department is its IT department, with over 4000 computer programs to which they have committed about 225 million dollars for the next fiscal year for computer upgrades. EDD has over 10,000 employees and 265 offices that staff 5 or more employees. The total number of offices would be 390 if it included the 'one stop' offices that are shared with other branches of state government throughout the state. EDD pays 50 million dollars per year in rent.

Mr. Henning stated that he recently met with both Republican and Democratic DOL representatives in Washington DC to discuss the programs and services provided by the Employment Development Department within the State of California. He has arranged to meet with them twice annually and has the Governors consent to do so.

Mr. Henning went on to comment about staffing at EDD. He said that 13% of the total staff is eligible to retire today. In 4 years, 40% of the total staff will be eligible to retire, 60% of supervisors and managers, so staffing is an issue that needs to be addressed. When considering staffing, the department will take into consideration diversity as well as persons with disabilities.

Mr. Henning will be forming an advisory committee composed of ten appointees with Dolores Huerta from the United Farm Workers as the Chairperson. The committee will study workforce diversity within the Department.

Starting in October 2005, many California state employees will contribute, from their paychecks, to the new SDI (State Disability Insurance) program.

Docket No. 5458 July 13, 2005

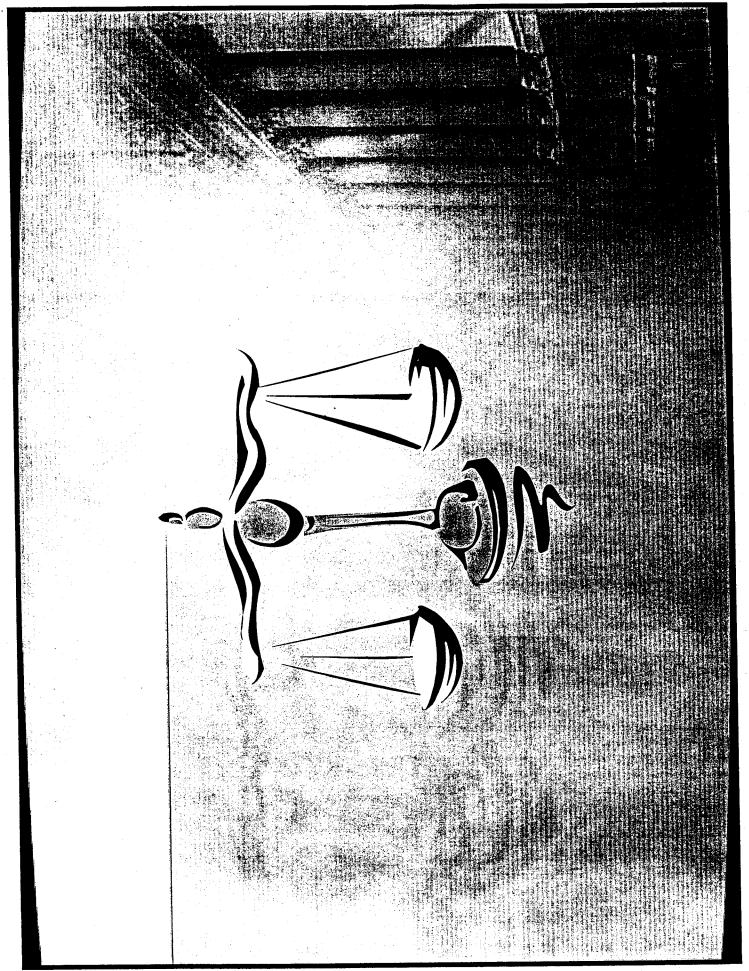
Finally, Mr. Henning stated EDD's call centers receive about 1000 calls per minute and 44,888 call attempts per day. In 2004 there were 28 million call attempts and 8.5 million were unique numbers.

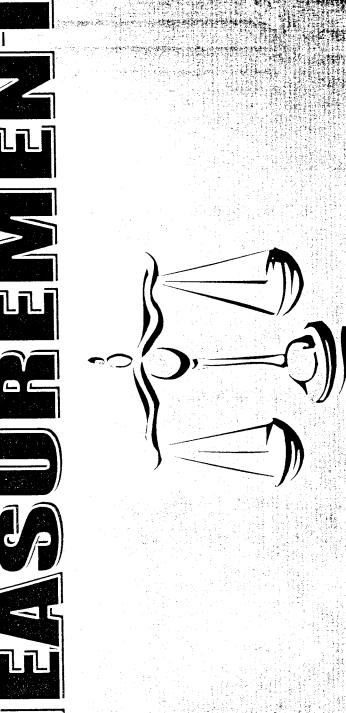
10. Public Comment:

There was no public comment.

11. Closed Session:

The regularly scheduled Board meeting adjourned, and the Board went into closed session. No votes were taken on any matters in closed session.





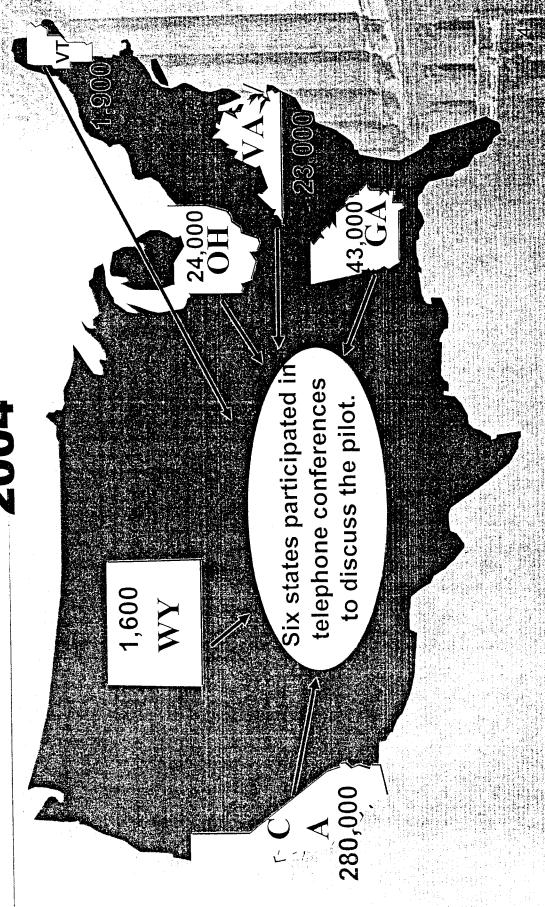
Every five years the Department of Labor (DOL) reviews their performance measurements.

Which measurement was DOL concerned about?

What could replace Time Lapse measurements?

How did DOL test the Case Aging Measurement?

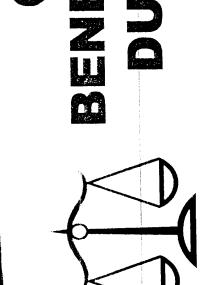
PARTICIPATED IN THE PILOT IN 2004





ON THE CASE AGING PILOT GENERAL INFORMATION

- The six-state pilot time frame was: Jan. 2004 through Sept. 2004
- all states directing them to begin submitting their case aging data starting in June 2005. April 18, 2005, the DOL sent an Advisory to
- The data will be collected for four quarters.



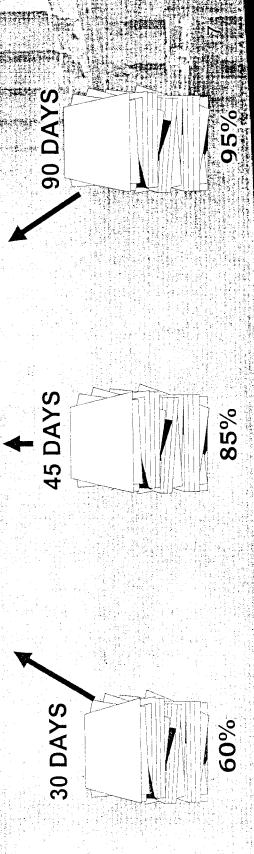
DURING THE 2004 CASE AGING:

- Case Aging promoted better management of the workflow.
- The Case Aging deadlines were found to be less stressfu on the staff than the Time Lapse measures which were more arbitrary.
- Case Aging appeared to be the fairest way of han appeals.

WHAT MAKES TIMELAPSE REQUIREMENTS UNFAIR AT FIELD OPERATIONS

A NUMBER OF STATES HAVE SCHEDULED A MIX OF CASES FROM EACH TL GROUP TO MEET TO MEET PERCENTAGES

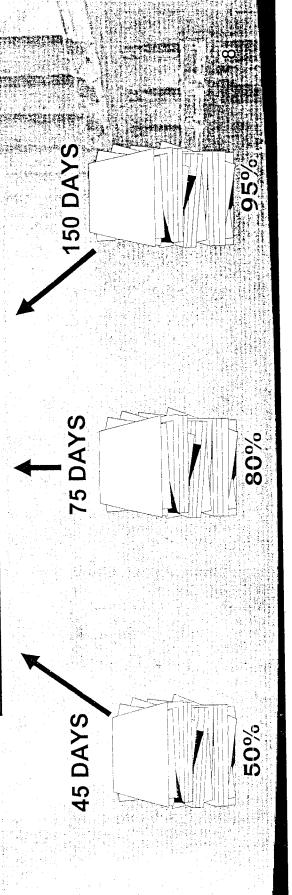
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7	6	16	23	30
1	8	15	22	29
	7	14	21	28



REQUIREMENTS UNFAIR AT APPELLATE OPERATIONS WHAT MAKES TIMELAPSE

THE SAME CAN
BE SAID FOR
HIGHER
AUTHORITY
CASE
ASSIGNMENTS
TO MEET
TIMELAPSE
PERCENTAGES

9	13	20	27	
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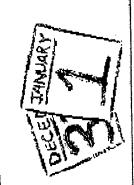
Gase Aging Measurements Why this may be the fairer process

TO MAKE IT FAIR, USE THE FIRST IN, FIRST OUT, CONCEPT



AND SHOULD BEHEARD IN THE ORDER OF THE CASES SHOULD BE TREATED WITH EQUAL DIGNI FILING OF APPEALS

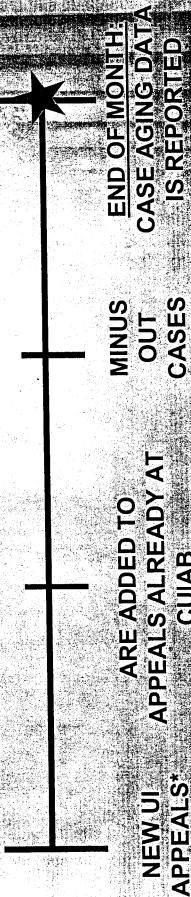




WHAT IS COUNTED EACH MONTH for CASE AGINGS

ARE SINGLE CLAIMANT APPEALS* **COUNT PENDING UI CASES THAT** the month First of

the month





DECIDED&

CUIAB

SENTIO

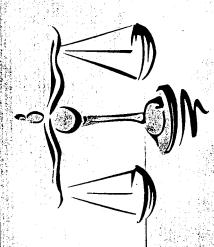
CUIAB

MAILED





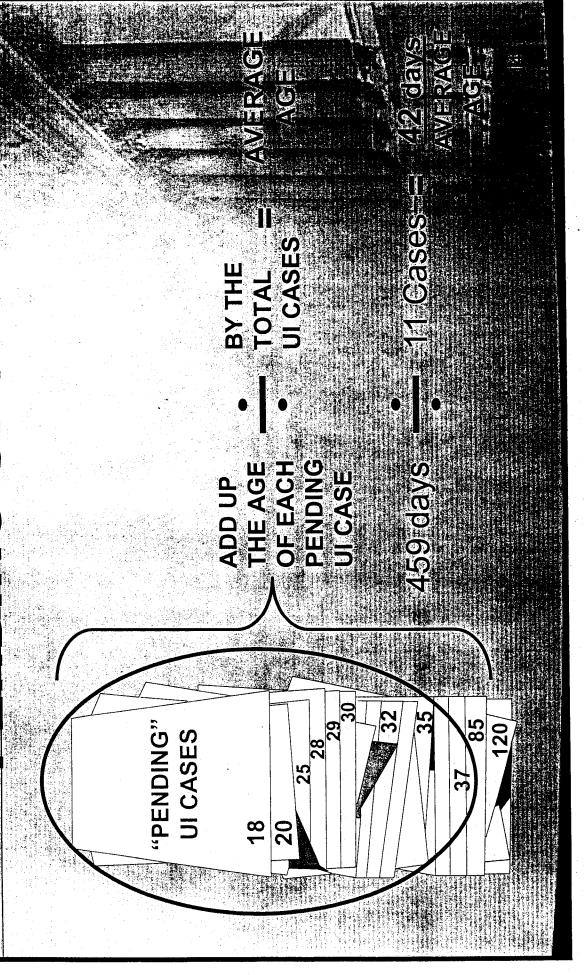




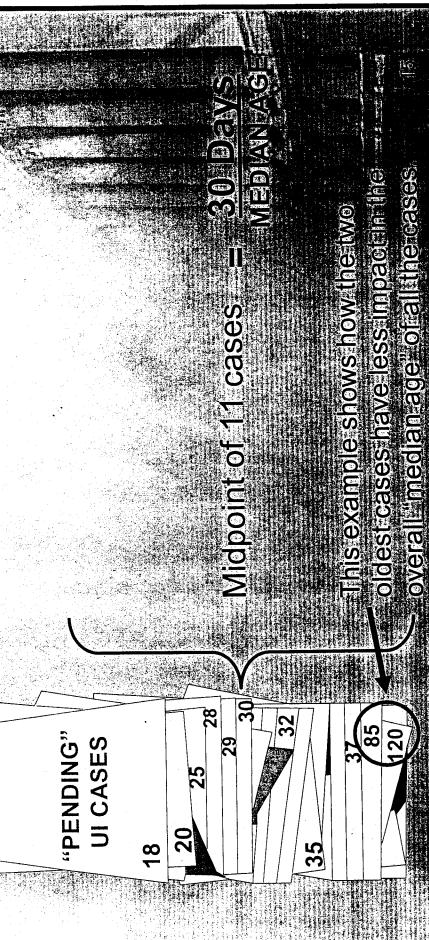
EFFECTIVE JUNE 2005, ALL STATES AR NOW REPORTING TWO TYPES OF CASE AGING MEASUREMENTS:

Average Age

3



HISPS DEL CASIM

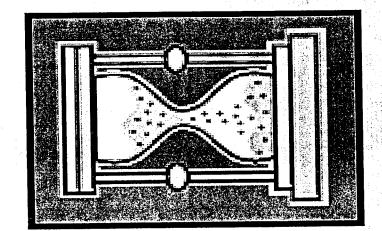


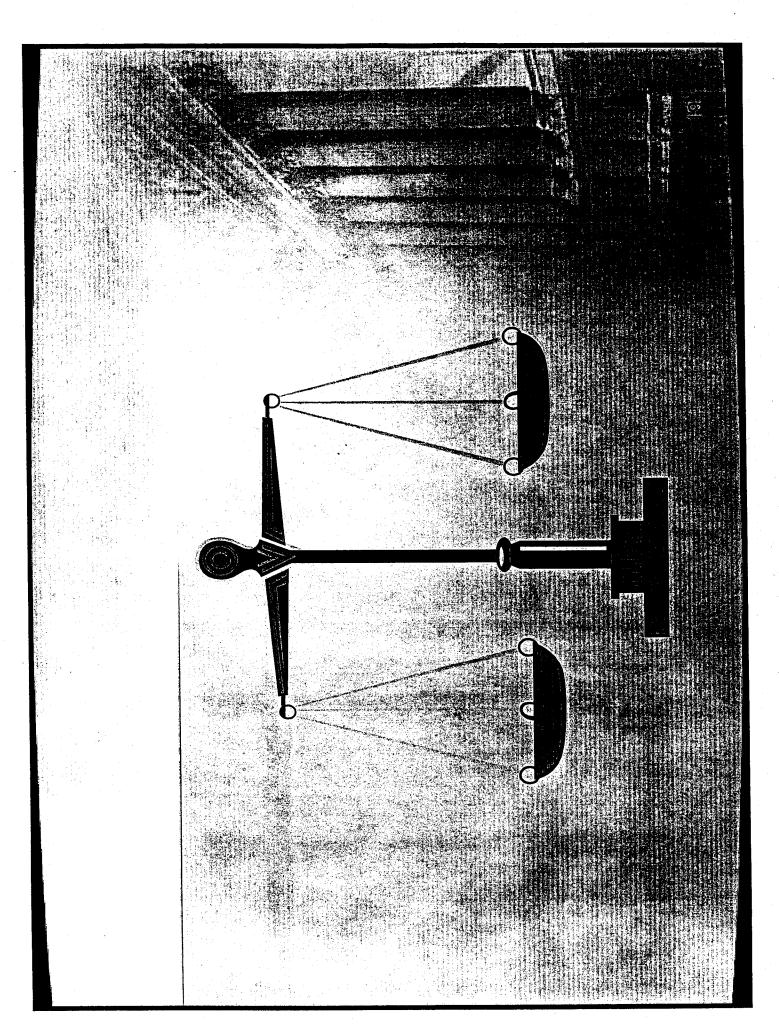
	O	CASE AGING PILO	PILOT		ŭ	CASE AGING PILOT	SING F	JLOT	
		2004				2	2005		
	Month	FO AVERAGE AGE (MEAN AGE)	AO AVERAGE AGE (MEAN AGE)		Month	FO AVERAGE AGE MEDIAN AGE	E AGE AGE	AVERA MEDIA	AO AVERAGE AGE MEDIAN AGE
	Jan 2004	42	50		Jan. 2005	37		9	61
	Feb. 2004	38	46	:	Feb. 2005	33		e	09
	Mar. 2004	35	46		Mar. 2005	32		4	48
	Apr. 2004	35	44		Apr. 2005	35		7	46
	May 2004	40	49	:	May 2005	37	(33)	47	(41)
	June 2004	40	49		June 2005	36	(34)	42	(37)
	July 2004	40	54		July 2005				
jyid (Aug. 2004	39	50		Aug. 2005				
	Sept 2004	38	53		Sept. 2005				
	Oct. 2004	38	09		Oct. 2005				
MM:	Nov. 2004	41	61		Nov. 2005				
	Dec. 2004	37	55		Dec. 2005		-		

WHAT HAPPENS AT THE END OF THE 05/06 PILOT?



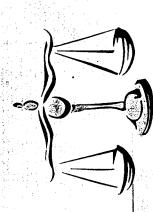
WILL BE AMENDED OR REPEALED, **THE REGULATION ON TIME LAPSE** AND A NEW REGULATION INACTE





Every five years the Department of Labor (DOL) reviews their performance measurements.

- complaints raised by many of the stal DOL was concerned about the Time Lapse measurements because of
- So a pilot was conducted to study a
- Case Aging Measurement to replace the Time Lapse Measurements.



POINTS OF DISCUSSION:

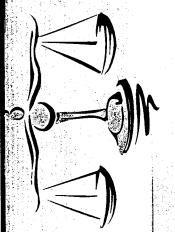
Time Lapse: Why this may not be the fairest process

Case Aging: Why this may be a fairer process

What is counted each month. The Case Aging Formula:

Flow to calculate the AWERAGE AGE

HOWARRAICHERBRANDAGE



Time Lapse

WHY IT MAY NOT BE THE FAIREST PROCESS

- Time lapse is a measure of the age of decl cases, not pending, active cases.
- workloads to manifoulate the scheduling of Cases older than 90 days are₌not even oin ime lapse creates incentives during hig tracked as a timelanse ineasurement

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CUIAB Managers/Supervisors Quick Reference Guide

PI **->**

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Topics T - Z

Actions

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E Export to spreadsheet

■ Modify settings and columns

Use the Quick Reference Guide to quickly locate the contact person for the corresponding topic.

opic	Branch 🔏	Contact Person & Primary Backup & Alternate Note:	5 · . E
Facilities	Admin	see I	Building [
Facility Acess - Badges	Admin	<u>Leigh Ann</u> <u>Davis</u>	
Fair Labor Standards Act	Admin	Mary Shaw	Ē
Fax Machines	Admin		Building [
First Aid/CPR Classs	P&PM	Jeanette Perez	
FMLA Coordinator	Admin	Kathy Carel	
Grievances	Admin	Mary Shaw	
Health & Safety	Admin	Kim Langan	
Health Benefits	Admin	Kathy Carel	Ē
Help Desk	Admin	Josh Perkins	# E
Incident Reports	P&PM	Michele Robinson	
Information Practices Act - Public Records	Executive	Ralph Hilton	
Information Security Officer	P&PM	Michele Robinson	
Injured State Workers Program	Admin	Frances Aguilar	
Injury & Illness Prevention Program	Admin	<u>Kim Langan</u>	
Intermittent Hours - Extension	Admin	Al Ramirez	
Interpreters	P&PM	Martha Silva	
Intranet	Admin	David Goebel Nakesha Robinson	
Inventory Control	Admin	<u>Leigh Ann</u> <u>Davis</u>	
IT Help Desk	Admin	Josh Perkins	
IT Manager	Admin	Nick Dressler	Ĺ
Jeopardy Assessments - Tax Unit	P&PM	Anissa Gracia	Standard .

Labor Relations Officer	Admin	Mary Shaw			
Language Line	P&PM	Martha Silva			7
Language Survey	P&PM	Martha Silva			3
Lease Management	Admin	Dorothy Alkire			E
Legislative Contact	Executive	Ralph Hilton			
Lexus I.D. Numbers	FOHQ	Naomi DeLeon- Diaz			孽
Mail Machines & Equipment	Admin	<u>Jennifer</u> Burkhart			
Manager - Admin Services - Business Services	Admin	Pat Houston			
Manager - Admin Services - Deputy Director	Admin	Pamela Boston			
Manager - Admin Services - Information	Admin	Nick Dressler			
Technology Manager - Admin	Admin	Frances Aguilar			7
Services - Personnel Services					•
Manager - Admin Services -	Admin	Al Ramirez	A SAN AR SAME AND GARAGE LAST SAN THE SAN AND ASSAULT AND ASSAULT AND ASSAULT	er en Antonio A	
Personnel Services					
Manager - P&PM - Budget/Workload	P&PM	Renee Erwin			
Manager - P&PM - Deputy Director	P&PM	Mary Walton- Simons			E 2
Manager - P&PM - Strategic Planning	P&PM	Ralyne Long			7
Manager - P&PM -	P&PM	Martha Silva			7
Training Programs					
Manager - P&PM - Workload Operations	P&PM	<u>Martha Diaz</u>			
Media Contact	Executive	Ralph Hilton			
Meeting Room Reservations - Inland	INOA	Jeanette Scott			
Meeting Room Reservations - Venture Oaks (Training Room & Board Room)	AO	<u>Juanita</u> <u>McKelvey</u>	Pat Loudon	<u>Claire</u> <u>Connelly</u>	5
Meetings - PJ/LSS	FOHQ	Tim McArdle			
Merit Award	Admin	Ingrid Azvedo			
					عومت

Program

Merit Salary Adjustment Admin P&PM

Kathy Carel

Multi - Trade Disputes

Martha Diaz

AGENDA ITEM 8 June 2005 LITIGATION CASES PENDING TOTAL: 110 Non-Benefit Cases: 2 New Cases Filed This Month: Cases Closed This Month: 7 SUPERIOR COURT: Claimant petitions 91 Employer petition 14 EDD petitions 0 105 2 Employer appeals 0 2005 Activity Summary FILED - SUPERIOR COURT: 17 7 EDD petitions 24 0 FILED - APPELLATE COURT: Claimant appeals 1 Employer appeals EDD appeals 0 2 **CLOSED - SUPERIOR COURT:** 31 **CLOSED - APPELLATE COURT:**

	2005 Decision	Summary
Claimant Appeals	Employer Appeals	CUIAB Decisions
Win: 6 Loss: 20	Win: 2 Loss: 4	Affirmed: 25 Reversed: 6 Remanded: 1

Case Assignments to the Board for the Month of: June 2	the Board for	r the Month of	F. June 2005						Agenda	da Item 8
Board Member	1st Member	2nd Member	3rd Member	5	D	Ruling	Тах	1 Party	2 Party	Total
Ann Richardson Sum Percent	299 23%	206	%0 8	442 34%	55 4%	2 0%	9 %	196 15%	312 24%	508
Cynthia Thornton Sum Percent	335 26%	224 17%	%0 0	209 39%	44 3%	1 0%	0%	117	442 34%	559 * **
Don Novey Sum Percent	129	197 15%	4 0%	286 22%	41	1 0%	2 0%	115	215	330 *
Jack Cox Sum Percent	241	265 20%	%0 8	434 33%	63 5%	2 0%	10	177	332 25%	509
Virginia Strom-Martin Sum Percent	289	387 30%	%0 0%	611 47%	57 4%	2 0%	11	189	492 38%	681 * **
Total Cases Reviewed:	1293	1279	15	2282	260	8	37	794	1793	,